HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 12809 OF 1998

Between:

The Depot Manager, APSRTC, Medak District.

...Petitioner

AND

1. Sri S.B.Chary S/o Narasaiah, and one another

.....Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 12809 OF 1998

ORAL ORDER:

Andhra Pradesh State Road Transport Corporation assails the award of the Labour Court, Hyderabad dated 11.10.1996 in I.D.No. 186 of 1993, whereby and whereunder, exercising jurisdiction under Section 2-A(2) of the Industrial Disputes Act, 1947, the labour Court allowed the claim of the first respondent, a Conductor of the petitioner Corporation, set aside the order of the removal from service and directed his reinstatement with all attendant benefits, including continuity of service but only 25% of the back wages payable for the period the first respondent was out of service.

The first respondent was the Conductor of the Petitioner-Corporation and was proceeded against in a domestic enquiry for having failed to collect fare and issue tickets to three passengers, who boarded at Stage No. 6 and alighted at Stage No. 7, without tickets and for having failed to observe the rule "issue and start" and also for having closed the ticket numbers of all denominations in SR up to the place of check without completing the issue of tickets.

In response to the charges, the workman pleaded in defence that on the relevant date of journey i.e. on 30.4.1992, he was conducting the bus, which was having water-boiling trouble in the radiator. He and the driver had informed the authorities, who had however directed the driver to proceed with the journey promising to replace the vehicle eventually. During the journey, as the radiator was getting heated up, the first respondent was pouring the water to keep the radiator functional during the journey. While so, when the bus reached stage No. 6, a number of passengers boarded the bus and despite the conductor's enquiry as to whether there are any passengers without tickets, there was no response and bus was moving. At that moment checking took place. At the domestic enquiry, it came out that the three passengers sitting on the rear side of the bus failed to produce tickets and confessed that they had not paid the fare. Consequently, the evidence revealed that though there was no *mala fide* intention, the first respondent had violated the technical rule of "issue and start", but in circumstances where he was pre-occupied with keeping the bus running on account of the defective radiator in the bus.

Agreeing with the conclusions in the domestic enquiry that the 1st respondent had violated the technical rule of "issue and start" but finding the 1st respondent's conduct not so grave as to warrant the penalty of removal of service, the labour court in exercise of the plentitude of its jurisdiction under Section 11-A of the Act, held that the penalty imposed was disproportionate. It modified the order of removal to one of reinstatement with all benefits including continuity of service but limiting the pay for the period during the order of removal to 25% of the period.

This court discerns no perversity or irrationality in the exercise of available discretion and jurisdiction by the labour court, warranting interference under Article 226 of the Constitution of India. There are no merits in the Writ Petition and accordingly, the same is dismissed. No order as to costs.

GODA RAGHURAM, J

Date: 13.06.2007
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